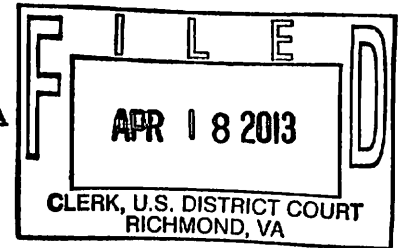


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



UNITED STATES OF AMERICA

v.

Criminal No. 3:12cr131-01

JOSE ARMANDO BRAN

ORDER

Having considered DEFENDANT'S MOTION TO EXCLUDE GOVERNMENT'S HISTORICAL CELLULAR TELEPHONE ANALYSIS (Docket No. 118), the response and the reply, and finding that the forecast testimony of the proposed Government expert witness meets the reliability and relevance concerns that are requisites outlined in Federal Rule of Evidence 702 and in Daubert v. Merrell Dow Pharms., Inc., 509 U.S. 579 (1993) and Kumho Tire Co. v. Carmichael, 526 U.S. 137 (1999) and that the proffered testimony is the product of the application of reliable principles and methods reliably applied, and considering that similar testimony has been widely accepted in the federal courts (United States v. Jones, ____ F. Supp. 2d ____, 2013 WL 246615, at *3 (D.D.C. Jan. 23, 2013); United States v. Schaffer, 439 F. App'x 344 (4th Cir. 2011)) and that the testimony in the field as to which this expert's testimony is proffered is neither untested nor unestablished, United States v. Fama, 2012 WL 6102700, at *3 (E.D.N.Y. Dec. 10, 2012); United States v. Henderson, 2011 WL

6016477, at *5 (N.D. Okla. Dec. 2, 2011) and finding that the proffered testimony does not run afoul of Federal Rules of Evidence of 703 or 611 and that the defendant's relevance objections lack merit, it is hereby ORDERED that the DEFENDANT'S MOTION TO EXCLUDE GOVERNMENT'S HISTORICAL CELLULAR TELEPHONE ANALYSIS (Docket No. 118) is denied.

It is further ORDERED that the facts and legal contentions are adequately presented in the materials before the Court and oral argument would not aid the decisional process.

It is so ORDERED.

_____/s/ REP
Robert E. Payne
Senior United States District Judge

Richmond, Virginia
Date: April 17, 2013